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diction, shall be a court of record. See 1917, HURD'S REV. STAT. ILL., Art. 6, § 18. Furthermore, in the matter of admitting to probate wills involving realty, Illinois has held that the county court decision is final and not subject to collateral attack. *James White Memorial Home v. Price*, 195 Ill. 279, 62 N. E. 872. *Keister v. Keister*, 178 Ill. 103, 52 N. E. 946. Then logically in intestate succession the county court decree should be as binding as in testate succession, for if one is a probate matter, the other also is probate. The decree of the court for probate matters on a probate question should then be binding on an equity court in a collateral attack. *Stone v. Wood*, 16 Ill. 177; *Hanna v. Yocum*, 17 Ill. 77; *Lynch v. Baxter*, 4 Tex. 431; *Klingensmith v. Bean*, 2 Watts (Pa.), 486; *State v. McGlynn*, 20 Cal. 233. And as the county court judgment was given in proceedings with due service according to the Illinois statute, it should be binding on the world as probate proceedings are *in rem*. *Mulcahey v. Dow*, 131 Cal. 73, 63 Pac. 158; *Greenwood v. Murray*, 26 Minn. 259, 2 N. W. 945; *Fry v. Taylor*, 1 Head (Tenn.), 594; *State v. McGlynn*, 20 Cal. 233; *Liginger v. Field*, 78 Wis. 367, 47 N. W. 613. Hence the case seems to be a remnant of the common-law view of intestate succession and therefore wrong.

BILLS AND NOTES — CHECKS — NEGLIGENCE OF DRAWER — YOUNG *VERSUS* GROTE. — The plaintiff's confidential clerk, whose duty it was to prepare checks for signature, presented a check blank as to words of amount but having "£2. 0. 0" in the space provided for figures. The plaintiff signed. The clerk subsequently wrote "one hundred and twenty pounds" in the space provided for words, inserted "1" and "0" on either side of the "2", cashed the check for £120 with the drawee bank, and absconded. The plaintiff sues the bank for the amount charged to his account less £2. In the Court of Appeal it was held he could recover. The case was subsequently carried to the House of Lords on appeal. *Held*, he could not recover. *London Joint Stock Bank, Ltd., v. Macmillan*, 145 L. T. 163.

For discussion of this case see 31 HARV. L. REV. 779, with which the final decision is in harmony.

CONSTITUTIONAL LAW — ADVISORY OPINIONS — APPEALS. — The Workmen's Compensation Act authorizes the Industrial Commission to certify to the Appellate Division of the Supreme Court "questions of law involved in its decision." The Commission certified a question as to the validity of certain rules it proposed to promulgate. Certain employers were allowed to appear and file briefs as *amici curiae*. The Appellate Division answered the question in favor of validity. The interveners appealed to the Court of Appeals. *Held*, appeal dismissed for want of jurisdiction. *In re Workmen's Compensation Fund*, 119 N. E. 1027 (N. Y.).

In the absence of a constitutional provision, a statute requiring the judiciary to render advisory opinions at the request of the other departments is held unconstitutional, because it imposes duties not properly judicial. *Rice v. Austin*, 19 Minn. 103; *State v. Baughman*, 38 Ohio St. 455. Even where the Constitution requires opinions, it is generally held that the advisory opinion has not the quality of judicial authority. See *Taylor & Co. v. Place*, 4 R. I. 324, 362; *Laughlin v. Portland*, 111 Me. 486, 497, 90 Atl. 318, 323; *Opinion of the Justices*, 126 Mass. 557, 566. See also J. B. THAYER, "American Doctrine of Constitutional Law," 7 HARV. L. REV. 129, 153; H. A. DUBUQUE, "The Duty of Judges as Constitutional Advisers," 24 AM. L. REV. 369, 374, 375. But see *contra*, *In re Senate Resolution*, 12 Colo. 466, 467, 21 Pac. 478, 479. In the principal case, advisory opinions were not required by the Constitution or by the statute, which was construed to authorize the Industrial Commission to certify on questions arising only out of litigated con-

troversies. WORKMEN'S COMPENSATION ACT, § 23. And there was no litigation before the Commission. So neither an advisory opinion nor a binding decision could be given by the Appellate Division on the question certified. This case, however, raises an interesting point. If an advisory opinion were given in pursuance of a constitutional provision, could that opinion be reviewed by a higher court? Such opinions are generally given without a hearing and without the aid of research and argument by counsel. However, if the advisory opinions are rendered after the filing of briefs by *amici curiae*, as in the principal case, they might have some judicial authority and so be reviewable. The only objection is that there is no judicial proceeding between parties litigant which the ultimate court is asked to review. See H. A. DUBUQUE, "The Duty of Judges as Constitutional Advisers," 24 AM. L. REV. 369 *et seq.*, for a valuable historical discussion of advisory opinions.

CONSTITUTIONAL LAW — INTERSTATE COMMERCE — CHILD LABOR LAW. — The federal Child Labor Law prohibits the transportation by interstate commerce of certain products of child labor. ACT SEPT. 1, 1916, 39 STAT. 675, c. 432 (COMP. STAT. 1916, §§ 8819 a-8819 f). A bill to enjoin threatened prosecutions of children was brought by their father, who alleged that the act is not a regulation of interstate and foreign commerce and that it contravenes the Fifth and Tenth Amendments to the Constitution. In support of the act the District Attorney relied upon the commerce clause of the Constitution. *Held*, the act is unconstitutional and the order allowing an injunction is affirmed. *Hammer v. Dagenhart*, 38 Sup. Ct. R. 529.

For a discussion of this case, see the article by Thurlow M. Gordon, "The Child Labor Law Case," p. 45.

CONSTITUTIONAL LAW — STATE AND FEDERAL JURISDICTION — MILITARY NECESSITY. — A man in the naval service of the United States while acting under orders from a competent authority to proceed with dispatch broke the speed laws of the state. *Held*, that state laws regulating speed upon the highways are subordinate to exigencies of military operations in cases where military necessity exists. *State v. Burton*, 103 Atl. 962 (R. I.).

The activities of the navy are within the control of the federal government. U. S. CONST., Art. I, § 8, ¶ 14. Unless clearly illegal on its face the order of a superior officer protects the subordinate. *United States v. Clark*, 31 Fed. 710. But it is not *per se* a justification nor is he removed from the jurisdiction of the civil authorities. *Mitchell v. Harmony*, 13 How. (U. S.) 115; *Dow v. Johnson*, 100 U. S. 158. Control of vehicles upon the highway falls within the police power of the state. *State v. Swagerty*, 203 Mo. 517, 102 S. W. 483. But the state cannot interfere with the due exercise of the federal authority. *McCulloch v. Maryland*, 4 Wheat. (U. S.) 316. Within its sphere the federal government transcends the police power of the state. *Ohio v. Thomas*, 173 U. S. 276. The necessities of war will justify a "private mischief." *Commonwealth of Pa. v. Sparhawk*, 1 Dall. (U. S.) 357. Winning the war is paramount to any rules for personal safety. But courts, even when recognizing federal superiority and the right of military authorities in case of military necessity to interfere with private rights, jealously guard their prerogative of judging whether there is such an emergency. *Philadelphia Company v. Stimson*, 223 U. S. 603, and cases cited.

CONTRACTS — DEFENSES — PUBLIC POLICY AS A DEFENSE FOR NON-PERFORMANCE. — The defendant refused to perform his part of a contract for a baby show on account of an epidemic of infantile paralysis. *Held*, the defendant was, as a matter of public policy, excused from performance. *Hanford v. Conn. Fair Ass'n, Inc.*, 103 Atl. 888 (Conn.).